

LEGISLATIVE RESOLUTION 249 (2011)

I. Purpose of LR 249

“We want to find meaningful ways of stopping the drivers who are more likely to put themselves, their passengers and other motorists at risk by drinking and driving.” (Governor Heineman, Dave. “Nebraska Adopting New Drunk Driving Laws.” June 17, 2011.) Drinking and driving is a dangerous activity, and it seems every year the Nebraska State Legislature passes new legislation to try to stop it. Unfortunately, the Legislature has been less successful in evaluating the effectiveness of statutes and best practices to prevent the behavior. The Legislature last conducted a study on drinking and driving in 1991, Legislative Resolution 84, authored by the Transportation and Telecommunications Committee. LR84 was an overview of Nebraska DUI laws in relation to other states, but it did not examine their effectiveness in preventing drinking and driving.

This study will examine the cost and prevalence of Alcohol-Impaired Driving (defined below), evaluate how Nebraska is addressing the problem, compare its efforts to other states, and provide suggestions to reduce drinking and driving and recidivism in Nebraska. The study will compare Nebraska to states that border it and to the states of the Big Ten Conference.

II. The Costs and Prevalence of Impaired Driving

The financial cost of impaired driving can vary greatly, emotionally and financially, depending on many factors such as insurance, towing and impound charges, education classes, driving record, blood-alcohol level, attorney fees, jurisdiction, and court costs, not to mention the specific circumstances of the incident, and whether or not there was an accident, or if anyone was injured.

To develop a better understanding of this problem, the terms “Alcohol-Impaired Drivers” and “Alcohol-Involved Crashes” must be defined. Drivers are considered “Alcohol-Impaired Drivers” if their blood alcohol concentration (BAC) is .08 grams per deciliter (g/dL) or higher. Any fatality occurring in a crash involving at least one driver with a BAC of .08 or higher is considered to be an alcohol-impaired driving fatality. “Alcohol-Involved Crashes” are those where at least one driver has a BAC of .01 or higher.

An analysis done by the Omaha World-Herald found the cost of a single conviction for driving under the influence (DUI) in Nebraska ranged from \$7,054 to \$14,704, depending on insurance and legal costs (Cordes, Robert J. “DUI's Human Toll Just the Start,” Omaha World-Herald, May 29, 2011.) The analysis also found, in 2009, the first-year cost of a DUI conviction in Nebraska ranged from \$4,054 to \$7,704. The added cost in subsequent years comes from continuation of the higher insurance premiums, which underwriters say lasts at least three years. Statistics show the average hospital charges \$1,614 per person for crashes that involve an Alcohol-Impaired Driver, compared to \$852 for non-alcohol related crashes. (Nebraska Department of Health and Human Services. “Alcohol and Crash Outcomes in Nebraska,” 2010.)

Unfortunately, Alcohol-Impaired Drivers are too common, and their effects far outweigh their number. In Nebraska, according to the Nebraska Office of Highway Safety (NOHS):

- In 2001, Nebraska convicted 12,246 individuals for DUI. In 2009, the number grew to 13,635. This number ranks as the fourth highest in the nation on a per-capita basis, per 100,000 residents.
- In 2011, 223 fatalities occurred on Nebraska roads; 30% of these fatalities involved Alcohol-Impaired Drivers. In 1990, 262 fatalities occurred on Nebraska roads; 40% of these fatalities involved Alcohol-Impaired Drivers. In 2000, 276 fatalities occurred on Nebraska roads; 36% of these fatalities involved Alcohol-Impaired Drivers.
- In Nebraska, 194,334 licensed drivers have one DUI conviction, 82,986 of those drivers (42.7%) have had two or more convictions. (NOHS. "FY2011 Highway Safety Annual Report," 2012.)

Drinking and driving is not exclusively a problem for Nebraska. According to a NHTSA study in 2010:

- 1.8% of all U.S. adults (4 million people) reported over 112 million episodes of alcohol-impaired driving. (NHTSA. "Traffic Safety Facts," 2010.)
- The average Alcohol-Impaired Driver has driven over the limit (BAC of .08 or higher) at least 87 times before their initial arrest for DUI. (NHTSA. "Traffic Safety Facts," 2010.)
- Of drivers involved in fatal crashes, 56% had a BAC of .15 or greater. Drivers involved in these fatal crashes were eight times more likely to have a prior conviction for Driving Under the Influence. (NHTSA. "Traffic Safety Facts," December 2011.)

Of course, the greatest cost of driving under the influence is the loss of lives. Nebraska scores near the middle of its cohorts.

State	Alcohol-Impaired Driving Fatalities	Alcohol-Impaired Driving Fatalities Under 21	Alcohol-Impaired Driving Fatalities per 100K population	Alcohol-Impaired Driving Fatalities per 100K population Under 21
Nebraska	66	8	3.7	1.5
Colorado	158	17	3.1	1.2
Illinois	319	35	2.5	0.9
Indiana	210	20	3.3	1.1
Iowa	96	13	3.2	1.5
Kansas	154	28	5.5	3.4

State	Alcohol-Impaired Driving Fatalities	Alcohol-Impaired Driving Fatalities Under 21	Alcohol-Impaired Driving Fatalities per 100K population	Alcohol-Impaired Driving Fatalities per 100K population Under 21
Michigan	246	28	2.5	1.0
Minnesota	108	14	2.1	0.9
Missouri	300	41	5.0	2.4
Ohio	324	37	2.8	1.2
Pennsylvania	406	39	3.2	1.2
South Dakota	53	15	6.5	6.3
Wisconsin	213	36	3.8	2.3

Source: NHTSA, "Traffic Safety Facts 2009 Data," 2009.

III. Nebraska's Efforts to Prevent Drinking and Driving

Nebraska has made many changes to its criminal code to prevent drinking and driving. However, since 1991 the significance and the rate of those changes have increased. Listed below are some of the more significant changes to the Nebraska statutes.

- In 1993, Nebraska implemented Administrative License Revocation (ALR) which authorizes law enforcement officers to immediately confiscate a driver's license as a result of a DUI arrest.
- In 1994, Nebraska made it illegal for individuals under the age of 21 to have a BAC above .02, Nebraska's "zero tolerance" law. A first-time violation of this law would result in license impoundment by the DMV for up to 30 days. A second violation of Nebraska's zero tolerance law under the age of 20 resulted in license suspension or revocation for a time period to be set by the Department of Motor Vehicles (DMV).
- In 2001, Nebraska lowered the maximum legal limit to .08 BAC.
- In 2006, Nebraska enhanced penalties for repeat DUI offenders and for offenders with a BAC of .15 or over.
- In 2009, Nebraska enacted an ignition interlock law under which the court could require the installation of an ignition interlock on each of the owner's motor vehicles. (NOHS, "Effective Date of Noteworthy Highway Safety Legislation," May 2011.)
- Most recently, in 2011, Nebraska passed LB667 and LB675. One of the main ideas behind LB667 law was to streamline the process for law enforcement, the Department of Motor Vehicles, and the DUI offender. LB675 increased the penalties for repeat offenders.

Since 1991, the date of the last comprehensive study on drinking and driving, the Legislature has made **134 revisions** to its DUI laws (emphasis added).

Neb. Rev. Stat. § 60-6,197.01 (6 changes since 1991)

Driving while license has been revoked; driving under influence of alcoholic liquor or drug; second and subsequent violations; restrictions on motor vehicles; additional restrictions authorized.

Laws 1999, LB585, § 7;

Laws 2001, LB38, § 49;

Laws 2006, LB925, § 10;

Laws 2008, LB736, § 7;

Laws 2009, LB497, § 5;

Laws 2010, LB924, § 3.

Neb. Rev. Stat. § 60-6,197.02 (5 changes since 1991)

Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; terms, defined; prior convictions; use; sentencing provisions; when applicable.

Laws 2004, LB208, § 12;

Laws 2005, LB594, § 2;

Laws 2009, LB497, § 6;

Laws 2011, LB667, § 34;

Laws 2011, LB675, § 8.

Neb. Rev. Stat. § 60-6,197.03 (9 changes since 1991)

Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; penalties.

Laws 2004, LB208, § 13;

Laws 2005, LB594, § 3;

Laws 2006, LB925, § 11;

Laws 2007, LB578, § 4;

Laws 2008, LB736, § 8;

Laws 2009, LB497, § 7;

Laws 2010, LB924, § 4;

Laws 2011, LB667, § 35;

Laws 2011, LB675, § 9.

Neb. Rev. Stat. § 60-6,198 (8 changes since 1991)

Driving under influence of alcoholic liquor or drugs; serious bodily injury; violation; penalty.

Laws 1992, LB291, § 13;

R.S.Supp., 1992, § 39-669.39;

Laws 1993, LB370, § 307;

Laws 1997, LB364, § 17;

Laws 2001, LB38, § 50;

Laws 2006, LB57, § 10;

Laws 2011, LB667, § 39;

Laws 2011, LB675, § 10.

Neb. Rev. Stat. § 60-6,201 (10 changes since 1991)

Driving under influence of alcoholic liquor or drugs; chemical test; violation of statute or ordinance; results; competent evidence; permit; fee.

Laws 1992, LB291, § 6;

Laws 1992, LB872, § 2;

R.S.Supp.,1992, § 39-669.11;

Laws 1993, LB370, § 296;

Laws 1993, LB564, § 9;

Laws 1996, LB1044, § 284;

Laws 2000, LB819, § 76;

Laws 2000, LB1115, § 7;

Laws 2001, LB773, § 17;

Laws 2007, LB296, § 234.

Neb. Rev. Stat. § 60-6,211.05 (11 changes since 1991)

Ignition interlock device; continuous alcohol monitoring device and abstention from alcohol use; orders authorized; prohibited acts; violation; penalty; costs; Department of Motor Vehicles Ignition Interlock Fund; created; use; investment; prohibited acts relating to tampering with device; hearing.

Laws 1993, LB564, § 6;

Laws 1998, LB309, § 24;

Laws 2001, LB38, § 55;

Laws 2003, LB209, § 15;

Laws 2004, LB208, § 22;

Laws 2006, LB925, § 16;

Laws 2008, LB736, § 10;

Laws 2009, LB497, § 10;

Laws 2010, LB924, § 5;

Laws 2011, LB667, § 40;

Laws 2012, LB751, § 46.

Neb. Rev. Stat. § 60-4,118.06 (7 changes since 1991)

Ignition interlock permit; issued; when; operation restrictions; revocation of permit by director.

Laws 2001, LB38, § 32;

Laws 2003, LB209, § 9;

Laws 2008, LB736, § 5;

Laws 2009, LB497, § 4;

Laws 2010, LB924, § 2;

Laws 2011, LB667, § 29;

Laws 2012, LB751, § 25.

Neb. Rev. Stat. § 60-6,196 (12 changes since 1991)

Driving under influence of alcoholic liquor or drug; penalties.

Laws 1992, LB291, § 4;

R.S.Supp.,1992, § 39-669.07;

Laws 1993, LB370, § 292;
Laws 1993, LB564, § 7;
Laws 1998, LB309, § 13;
Laws 1999, LB585, § 5;
Laws 2000, LB1004, § 1;
Laws 2001, LB38, § 47;
Laws 2001, LB166, § 4;
Laws 2001, LB773, § 15;
Laws 2003, LB209, § 11;
Laws 2004, LB208, § 10

Neb. Rev. Stat. § 60-6,197 (14 changes since 1991)

Driving under influence of alcoholic liquor or drugs; implied consent to submit to chemical test; when test administered; refusal; advisement; effect; violation; penalty.

Laws 1992, LB872, § 1;
Laws 1992, LB291, § 5;
R.S.Supp., 1992, § 39-669.08;
Laws 1993, LB370, § 293;
Laws 1993, LB564, § 8;
Laws 1996, LB939, § 2;
Laws 1998, LB309, § 14;
Laws 1999, LB585, § 6;
Laws 2000, LB1004, § 2;
Laws 2001, LB38, § 48;
Laws 2001, LB773, § 16;
Laws 2003, LB209, § 12;
Laws 2004, LB208, § 11;
Laws 2011, LB667, § 33.

Neb. Rev. Stat. § 29-215 (4 changes since 1991)

Law enforcement officers; jurisdiction; powers; contracts authorized.

Laws 1994, LB254, § 1;
Laws 1999, LB87, § 68;
Laws 2003, LB17, § 9;
Laws 2011, LB667, § 5.

Neb. Rev. Stat. § 60-498 (4 changes since 1991)

Revocation; when mandatory.

Laws 1991, LB420, § 8;
Laws 1992, LB291, § 15;
Laws 1993, LB370, § 79;
Laws 2003, LB209, § 3.

Neb. Rev. Stat. § 60-498.01 (12 changes since 1991)

Driving under influence of alcohol; operator's license; confiscation and revocation; application for ignition interlock permit; procedures; appeal; restrictions relating to ignition interlock permit; prohibited acts relating to ignition interlock devices; additional revocation period.

Laws 1992, LB872, § 4;

Laws 1992, LB291, § 9;

R.S.Supp.,1992, § 39-669.15;

Laws 1993, LB370, § 300;

Laws 1996, LB939, § 3;

Laws 1998, LB309, § 15;

Laws 2001, LB38, § 51;

R.S.Supp.,2002, § 60-6,205;

Laws 2003, LB209, § 4;

Laws 2004, LB208, § 5;

Laws 2011, LB667, § 24;

Laws 2012, LB751, §20.

Neb. Rev. Stat. § 60-498.02 (16 changes since 1991)

Driving under influence of alcohol; revocation of operator's license; reinstatement; procedure; ignition interlock permit; restrictions on operation of motor vehicle.

Laws 1992, LB291, § 11;

R.S.Supp.,1992, § 39-669.16;

Laws 1993, LB370, § 301;

Laws 1993, LB491, § 1;

Laws 1993, LB564, § 12;

Laws 1998, LB309, § 16;

Laws 2001, LB38, § 52;

R.S.Supp.,2002, § 60-6,206;

Laws 2003, LB209, § 5;

Laws 2004, LB208, § 6;

Laws 2008, LB736, § 3;

Laws 2009, LB497, § 2;

Laws 2010, LB924, § 1;

Laws 2011, LB667, § 25;

Laws 2011, LB675, § 2;

Laws 2012, LB751, §21

Neb. Rev. Stat. § 28-106 (5 changes since 1991)

Misdemeanors; classification of penalties; sentences; where served.

Laws 1992, LB291, § 1;

Laws 1998, LB309, § 1;

Laws 2002, LB82, § 3;

Laws 2005, LB594, § 1;

Laws 2011, LB675, § 1.

Administrative License Revocation

In addition to increasing the penalties for drinking and driving, Nebraska has initiated other changes. The Nebraska Department of Motor Vehicles (DMV) can suspend a driver's license through an administrative system when a person is suspected of drinking and driving. "Because persons who drive while under the influence of alcohol present a hazard to the health and safety of all persons using the highways, a procedure is needed for the swift and certain revocation of the operator's license of any person who has shown himself or herself to be a health and safety hazard (a) by driving with an excessive concentration of alcohol in his or her body or (b) by driving while under the influence of alcohol." Neb. Rev. Stat. § 60-498.01

Currently, 41 states and the District of Columbia have ALR laws. In 1993, Nebraska became one of the first states to begin using ALRs. Per the Nebraska Administrative Code, operator's license and/or operating privileges can be revoked through administrative law, which has the lower burden of proof.

In Nebraska, when a person is arrested for suspicion of DUI, law enforcement confiscates the driver's license, issues the driver a 15-day permit, and presents the driver with information on an ALR hearing and obtaining an ignition interlock device. A person may either have an ALR hearing with the DMV or waive the ALR hearing and request the installation of an ignition interlock device in their vehicle(s). The DMV's legal department is both the prosecutor and the adjudicator for all ALR hearings. The DMV must prove, by a preponderance of the evidence, the person was driving and that the person was intoxicated. If the DMV prevails, the individual's license is suspended for the entire period of suspension. The Nebraska DMV stated, in 2010, Nebraska had around 13,000 DUI arrests. Around 11,000 filed for ALR petitions, and roughly 6,800 ALR hearings were held. From January 1, 2012, to July 31, 2012, there have been 5,788 DUI arrests in Nebraska. During this time period, there have been only 324 ALR hearings held. (Neth, Beverly. Personal communication, August 30, 2012.)

The largest reason for the drop in ALR hearings is the ability to obtain an ignition interlock device. If an individual waives their ALR hearing, the period of total suspension is much less, as long as the offender agrees to install an ignition interlock device (see ALR penalties). The driver must pay a \$125 reinstatement fee, and this can be done at any approved DMV examiner within the state. An ignition interlock device is an electronic breath-alcohol test, or analyzer, that connects to the vehicle's ignition via the starter system or other on board computer systems of a motor vehicle. It is not connected to the engine and, therefore, cannot stop the car once it has been started. The interlock device measures the BAC of the intended driver and prevents the vehicle from being started if the BAC exceeds a pre-set limit. NHTSA standards require the "failure" to be within +.01 of the pre-set limit. Most devices are pre-set to a BAC level of .02, with the threshold for lockout set at .025.

Ignition interlocks include a data recording device which is used to capture information about the use of the vehicle (e.g., number of attempts to start vehicle, date and time of start, BAC readings, failures, mileage driven, etcetera). Probation officers, court officers, or judges can use the records to monitor compliance with the sanction, make judgments about the likelihood of future offenses, and evaluate the risk and level of threat the offender would pose on the road if removed from the interlock program.

Nebraska's Department Motor of Vehicles anticipates with the application of the new law, that 7,000 to 8,000 ignition interlock devices will be installed in the 2012 calendar year.

ALR Administrative Penalties

ALR 1st Failure of Alcohol Test -§ 60-498.01 and 498.02

One-year license revocation. The driver may apply to DMV for an Ignition Interlock Device 15 days after the arrest.

ALR 2st Failure of Alcohol Test -§ 60-498.01 and 498.02

One-year license revocation. The driver may apply to DMV for an Ignition Interlock Device, if the driver does not ask for a hearing, 45 days after the arrest.

ALR Refusal of Alcohol Test -§ 60-498.01 and 498.02

One-year license revocation. The driver may apply to DMV for an Ignition Interlock Device, if the driver does not ask for a hearing, 90 days after the arrest.

Ignition interlocks are not designed to or capable of changing a convicted DUI offender's behavior directly. The purpose of the device is to control and monitor vehicles driven by convicted DUI offenders, thus enhancing public safety, while still allowing these offenders to remain productive members of society with appropriate limits on their use of motor vehicles.

DUI Court

In 2007, the Nebraska State Probation Office began a pilot DUI court program in Scotts Bluff County. It is a court-supervised, comprehensive treatment program for nonviolent DUI offenders who have been diagnosed, by a registered provider, as alcohol dependent. DUI courts operate on a post-conviction model. Offenders enter the program on a voluntary basis after they have been convicted. The program does not promise a reduction of charges once an offender has completed the program, nor does it advocate for a reduction of charges before entering the program. All offenders are placed on probation, and completion of DUI court becomes part of their probation order. Any mandatory jail time that is required by statute will be served up-front and immediately following sentencing.

The program attempts to change the "hard-core" offender's behavior by implementing intensive supervision and long-term treatment. The program offers incentives, such as modification in treatment, decrease in levels of supervision, and waiving of court fees, if the offender does well, and immediate sanctions if there is noncompliance. Accountability is one of the main focuses of the program. The court does not want to just change the offender's behavior during their time in the program, but change the offender's behavior for a lifetime.

DUI court offenders are required to appear in court as ordered by the judge. The judge receives a progress report prepared by the DUI court team regarding the offender's drug test results, attendance at counseling sessions, attendance at self-help meetings, and general compliance with probation and the drug court program. The judge may ask the offenders questions about their progress and discuss any specific problems an individual offender may be experiencing. Incentives and sanctions are applied, as needed, in order to motivate the offender toward a sober lifestyle.

The treatment program may consist of individual and group counseling, as well as regular attendance at 12-step meetings, such as Alcoholics Anonymous. Offenders are required to submit to frequent alcohol

and drug testing. In addition, offenders in this program are required to wear a continuous alcohol monitoring device, called CAM. A final component of treatment also includes assessing an offender's educational, employment, mental health, and/or medical needs. The length of the program, determined by each participant's progress, will be no less than one year.

Although the DUI court has existed for more than five years, the study was unable to find any data detailing rate of recidivism, determining if the program is more successful than confinement, or even the cost of the DUI court versus traditional prosecution.

Alcohol Sales Tax

Alcohol excise taxes affect the price of alcohol and are intended to reduce alcohol-related harms, raise revenue, or both. Alcohol taxes are implemented at the state and federal level and are beverage-specific (i.e., they differ for beer, wine, and spirits). These taxes are based on the amount of beverage purchased (not on the sales price), so their effects can erode over time due to inflation if they are not adjusted regularly.

Every state, and the District of Columbia, imposes an excise tax on beer, in addition to the federal excise tax. Nebraska collects the tax from distributors who make tax payments on their purchases, which minimizes the number of taxpayers and results in an efficient method of tax collection. All states require extensive record-keeping by distributors. Nebraska requires that beer must "come to rest" within warehouses. This means that beer must come to a licensed wholesaler in the state before being resold to a retailer. This ensures that it does not avoid the state excise tax.

Nebraska has the highest state beer excise tax of any surrounding state in the Midwest, with \$9.61 a barrel, (38th highest in the United States). For wine it is \$0.95 (25th highest in the United States), for spirits \$3.75 (tied for 13th highest in the United States).

IV. What Are Other States Doing?

State Drinking and Driving Penalties

Some states use more punitive measures, such as in Illinois and South Dakota. In these states an offender can spend up to one year in jail for a first-offense DUI conviction. Other states favor less punishment and place an emphasis on treatment. For a first-offense DUI conviction in Pennsylvania the maximum punishment is up to six months probation but in order for an offender's driver's license to be reinstated they must prove that they have successfully completed an alcohol-and drug-treatment program. Nebraska ranks in the middle of the sentencing range, with a maximum punishment of up to 60 days in jail.

State	1st Offense	2nd Offense	3 DUIs or More	Enhanced BAC Law	Mandatory Substance Abuse Evaluation	Ignition Interlock Possible	Administrative License Suspension 1st/2nd/3rd
Nebraska	Up to 60 days	10 days to 1 year	30 days to 1 year	Yes	Yes	Yes	6m/1y/1y
Colorado	5 days to 1 year	10 days to 1 year	60 days to 1 year	Yes	Yes	Yes	3m/1y/1y
Illinois	Up to 1 year	5 days to 1 year	10 days to 3 years	Yes	Yes	2 nd Offense	90d/1y/varied
Indiana	Up to 60 days	5 days to 3 years	10 days to 3 years	Yes	No	Yes	180d/180d/180d
Iowa	2 days to 1 year	7 days to 1 year	30 days to 1 year	Yes	Yes	Yes	180d/1y/2y
Kansas	2 days to 6 months	90 days to 1 year	90 days to 1 year	Yes	Yes	Yes	30d/1y/1y
Michigan	Up to 93 days	Up to 1 year	1 to 5 years	Yes	Yes	2 nd Offense	6m/1y/1y
Minnesota	Up to 90 days	30 days to 1 year	90 days to 1 year	Yes	No	Yes	90d/180d/1y
Missouri	Up to 6 months	Up to 1 year	Up to 4 years	Yes	Yes	Yes	30d/1y/1y
Ohio	3 days to 6 months	5 days to 6 months	30 days to 1 year	Yes	No	Yes	6m/1y/1y
Pennsylvania	6 months probation	5 days to 6 months	10 days to 2 years	Yes	Yes	2 nd Offense	1y/1y/1y
South Dakota	Up to 1 year	Up to 1 year	Up to 2 years	No	No	No	30d/1y/1y
Wisconsin	Up to 6 months	5 days to 6 months	30 days to 1 year	Yes	Yes	Yes	6m/1y/2y

Source: Governors Highway Safety Association. "Drunk Driving Laws," November 2012.

DUI Courts Nationally

As of December 2010, there are a total of 174 designated DUI courts in the United States. In addition, there are another 395 hybrid DUI/Drug courts in operation. (A hybrid DUI/Drug court is one that started out as a drug court that now also takes DUI offenders.) That brings the total number of specialized courts dealing with impaired drivers in the United States to 569.

States	Hybrid DUI Court	Number of Hybrid Courts	Designated DUI Courts	Number of Courts
Colorado	Yes	N/A	No	2 counties
Illinois	Yes	2 counties	No	N/A
Indiana	Yes	17 counties	No	N/A
Iowa	No	N/A	No	N/A
Kansas	No	N/A	No	N/A
Michigan	Yes	19 counties	Yes	18 counties
Minnesota	Yes	5 counties	Yes	8 counties
Missouri	Yes	44 counties	Yes	3 counties
Ohio	No	N/A	Yes	4 counties
Pennsylvania	Yes	3 counties	Yes	7 counties
South Dakota	No	N/A	No	N/A
Wisconsin	Yes	1 county	Yes	3 counties

Source: Bureau of Justice Assistance. "Painting The Current Picture: A National Report Card on Drug Courts and Other Problem-Solving Court Programs in the United States," May 2008.

Server Training in Other States

Responsible beverage service (RBS) training programs give owners, managers, and staff of establishments that serve alcohol knowledge and skills to help them serve alcohol responsibly and fulfill the legal requirements of alcohol service.

Training programs for managers and owners most often provide guidance on implementation of service policies and practices. Training programs for servers focus on knowledge and skills that enhance their ability to prevent excessive alcohol consumption among patrons and minimize harms from excessive drinking that has already occurred.

State	Mandatory Training	Voluntary Training	No Training
Nebraska		X	
Colorado		X	
Illinois		X	
Indiana	X		
Iowa			X
Kansas			X
Michigan	X	X	
Minnesota			X
Missouri			X

State	Mandatory Training	Voluntary Training	No Training
Ohio		X	
Pennsylvania		X	
South Dakota		X	
Wisconsin	X		
Wyoming		X	

Source: Hoover, Sandra A., Ph.D. M.P.H. "Beverage Service Training and Related Practices," Community Prevention Institute.

Proactive Measures by Other States

In addition to looking at our border-states and members of the Big Ten, the study looked at innovation programs in other states.

Impaired-Driving Task Forces

As of January 2006, 16 states including within our cohort, Illinois, Indiana, Michigan, Minnesota, and Wyoming had statewide impaired-driving task forces. Impaired-driving task forces provide a way to get key players, who address DUI issues together, to share information, explore options, and close potential loopholes in the circle of impaired-driving legislation, enforcement, prosecution, adjudication, and treatment. Statewide impaired-driving task forces also provide a calm and safe place for members to address potentially controversial issues or any unintended consequences of strategies or new legislation that may affect different state agencies and stakeholders before the change is adopted.

Utah's DUI Committee has been functioning since 1994. The committee is an adjunct of the Utah Substance Abuse and Anti-Violence Coordinating Council, and the Utah Commission on Criminal and Juvenile Justice. It has developed a sterling reputation among the Utah legislators as recommending legislation that is well researched and has agreement among the key stakeholders. As such, most of the committee's recommended legislation has been adopted by the State legislature. This DUI Committee has evolved through three reorganizations, and its history highlights some of the unforeseen twists and turns of task forces.

In 1982, Virginia Governor Chuck Robb established Virginia's first Governor's Task Force to Combat Driving Under the Influence of Drugs and Alcohol. In 1983, the task force made 51 recommendations in the areas of DUI enforcement, adjudication, rehabilitation, and public awareness. By 1993, all but 7 of the 51 recommendations had either been enacted (in the case of legislation) or implemented, and by 2003, only 5 of the 51 had not been implemented.

New Mexico's DWI Leadership Team has been instrumental in the state's substantial progress in reducing impaired driving. Between 2003 and 2006, when most of the United States did not experience reductions in alcohol-related fatal crashes, New Mexico saw a 15 percent decline in their alcohol-related traffic fatalities.

V. Suggestions and Solutions

Server and Seller Alcohol Education

The Nebraska Liquor Control Commission oversees the liquor licensing and/or bartender licensing rules and regulations. Nebraska law only requires that training be made available to licensees. Server training may be required if the liquor licensee or bartender violates the rules and regulations. Thirteen states, including Indiana, Michigan, and Wisconsin, mandate “responsible beverage service” training for some servers of alcohol. (NHTSA. “Laws Prohibiting Alcohol Sales to Intoxicated Persons,” June 2009.)

We recommend more research should be conducted to effectively evaluate these programs to learn if they are reducing impaired driving. Should Nebraska choose to mandate server training, we recommend they mirror Michigan’s Rules and Regulations. In Michigan, server training is voluntary for employees but mandatory for supervisors (NHTSA, “Laws Prohibiting Alcohol Sales to Intoxicated Persons,” June 2009).

15-Year Revocation

LB667 does not address drivers who have already had their license revoked for 15 years. These drivers are not able to apply for an ignition interlock device immediately. These drivers must serve at least seven years of the revocation before applying for a pardon. If a pardon is granted, the driver may apply for an ignition interlock device.

It is important for this population to attend drug and alcohol education classes, pick their children up, and be able to work. Nebraska lacks mass transportation. People need personal transportation to maintain a normal and productive life. Revoking a license does not guarantee the person will not drive. “Eighty percent of drunk drivers with suspended licenses in Nebraska continue to drive.” (Cordes, Robert J.”DUI’s Human Toll Just the Start,” Omaha World-Herald, May 29, 2011.) Instead of preventing people from driving, we should encourage people to drive sober.

We recommend the Nebraska Legislature pass legislation to allow drivers who have already had their license revoked because of prior DUI convictions be eligible to apply for an ignition interlock device.

Alternative Transportation

Secondary prevention efforts focus on reducing the likelihood that a person who is intoxicated drives a vehicle. The research indicates this is less effective than primary prevention efforts because the person is already intoxicated. The focus of secondary prevention efforts is on increasing the perceived risk of DUI enforcement and providing alternative means of transportation home, such as public transit, designated drivers, or free cab rides. (Stimpson, Jim P. “Policy Analysis of Impaired Driving Laws in Nebraska,” March 2012.) While this is more difficult in rural areas, Nebraska needs better forms of alternative transportation. Our current regulatory structure discourages expansion of taxi services who could address many of these needs.

We recommend the Nebraska Legislature task the University of Nebraska Medical Center’s College of Public Health with research to examine how to improve secondary prevention efforts across the state.

They should specifically focus their research on how Nebraska can best utilize alternative means of transportation.

Additional Data

The Nebraska State Legislature should make research and collection of data a priority. Research on statutes is easily available. It is much more difficult to find research or data on best practices or which practices work and why. It is important to look at solutions other than incarceration. This is expensive and may not be productive. We must determine the success rate of rehabilitation versus confinement as a deterrent to a second or subsequent conviction. Nebraska has had a pilot DUI court program since 2007. Should DUI courts be implemented throughout the state? There is no research to indicate if this program is working.

LR249 looked to: determine if there is a direct correlation between recidivism and either confinement or rehabilitative programs when addressing alcohol abuse in Nebraska; determine the financial impact that recidivism has on county and state correctional facilities, public health agencies, and rehabilitation programs; and determine the success rate of a rehabilitation program versus confinement as a deterrent to a second or subsequent conviction of driving under the influence. Data did not exist or was not made available to determine answers.

We recommend the Nebraska State Legislature make research a priority when it convenes in January of 2013. The research should focus on how Nebraska is addressing the problem of impaired driving and what Nebraska can do to improve their efforts. "Best practices" from other states should be researched and implemented to improve Nebraska's policies. We recommend the Judiciary Committee seek applications from known research institutions to complete this task.

VI. Participants in the Study

We would like to thank the following participants, without whose help we would not have been able to complete this study. We would also like to commend them for all of their efforts. They have worked tirelessly to prevent impaired driving in our state.

Bob Batt, Chairman, Nebraska Liquor Control Commission

Mike Behm, Executive Director, Nebraska Commission on Law Enforcement and Criminal Justice

Lieutenant Terry Campbell, Omaha Police Department, retired

Scott Carlson, Statewide Coordinator, Problem-Solving Courts at Nebraska Supreme Court

Marty Conboy, City Prosecutor, Omaha, Nebraska

Dr. Ayman El-Mohandes, University of Nebraska Medical Center, Dean of the College of Public Health

W. Patrick Dunn, Dunn and Stockmann, STET

Alex Hayes, Chief of Police, Omaha Police Department, Omaha, Nebraska

Don Kleine, Douglas County Attorney, Omaha, Nebraska

Joe Kohout, Associated Beverage Distributors of Nebraska

John Lindsay, Nebraska County Judges Association

David Lutton, Lutton Law Office

Deb Minardi, Deputy Administrator, Nebraska Supreme Court Office of Probation Administration

Beverly Neth, Director, Nebraska Department of Motor Vehicles
Nick Paden, Ignition Interlock Systems of Iowa
Amy Prenda, Nebraska Sheriffs' Association
Jane Raybould, Lancaster County Commissioner
Diane Riibe, Executive Director, Project Extra Mile
Stacy Ryan, mother of a convicted drunk driver
Kathy Siefken, Executive Director, Nebraska Grocery Industry Association
Jim Stimpson, Ph.D., associate professor, University of Nebraska Medical Center, College of Public Health
Daniel Stockmann, Dunn and Stockmann, LLO
Fred Zwonechek, Administrator, Nebraska Office of Highway Safety